

packages are conspicuously marked or printed with the words "Immature Fruit;" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(c) Apples for processing which do not meet the grade standards specified in § 33.10, if such apples grade at least U.S. No. 1 as specified in U.S. Standards for Apples for Processing (§§ 51.340 to 51.344 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(d) Pears for processing which do not meet the grade standards specified in § 33.10, if such pears grade at least U.S. No. 1 as specified in U.S. Standards for Pears for Canning (§§ 51.1345 to 51.1358 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting other requirements of §§ 33.10 and 33.11.

[24 FR 6610, Aug. 14, 1959, as amended at 30 FR 8775, July 13, 1965; 54 FR 29318, July 12, 1989]

**WITHHOLDING CERTIFICATES**

**§ 33.13 Notice.**

If the Secretary is considering withholding the issuance of certificates under the act for a period of not exceeding 90 days to any person who ships, or offers for shipment, apples or pears to any foreign destination in violation of any provisions of the act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the act or the regulations in this part is charged.

**§ 33.14 Opportunity for hearing.**

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and ar-

gument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

**§ 33.15 Suspension of inspection.**

Any order to withhold the issuance of a certificate, as provided in section 6 of the act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Export Form Certificate or Memorandum of Inspection to such person.

**§ 33.16 Service of notice or order.**

Service of any notice or order required by the act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

**INTERPRETATIVE RULES**

**§ 33.50 Apples and pears for processing.**

The terms "apples for processing" and "pears for processing" as used in § 33.12 of this part apply only and are restricted to packages of apples or pears which were originally packaged for processing and marked "Cannery" as required by § 33.12 (c) and (d) of this part. Packages of apples or pears not so originally packaged and marked are not eligible for certification as "apples

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for processing” or “pears for processing” for purposes of this part.

[25 FR 12430, Dec. 6, 1960]

### § 33.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0581-0143.

[49 FR 23825, June 8, 1984]

## PART 34 [RESERVED]

## PART 35—EXPORT GRAPES AND PLUMS

### DEFINITIONS

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- 35.2 Person.
- 35.3 Secretary.
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- 35.13 Minimum quantity.

### WITHHOLDING CERTIFICATES

- 35.14 Notice.
- 35.15 Opportunity for hearing.
- 35.16 Suspension of inspection.
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- 35.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599.

SOURCE: 26 FR 8934, Sept. 22, 1961, unless otherwise noted.

### DEFINITIONS

#### § 35.1 Act.

*Act* or *Export Grape and Plum Act* means “An Act to promote the foreign trade of the United States in grapes and plums, to protect the reputation of American-grown grapes and plums in

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foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes” (74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599).

#### § 35.2 Person.

*Person* means an individual, partnership, association, corporation, or any other business unit.

#### § 35.3 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

#### § 35.4 Carrier.

*Carrier* means any common or private carrier, including, but not being limited to, trucks, rail, airplanes, vessels, tramp or chartered steamers, whether carrying for hire or otherwise.

#### § 35.5 Package.

*Package* means any container of any variety of vinifera species table grapes.

[41 FR 32877, Aug. 6, 1976]

#### § 35.6 Shipment.

*Shipment* means one or more lots of any variety of vinifera species table grapes shipped or offered for shipment by any one person in a single conveyance to a foreign country regardless of the number of consignees, receivers, or ports of destination in that country.

[41 FR 32877, Aug. 6, 1976]

#### § 35.7 Certificate.

*Certificate* or *Certificate of Inspection* means any of the official forms of inspection certificate, bearing the statement “meets Export Grape and Plum Act,” issued by the Federal or Federal-State Inspection Service in accordance